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Our Reference: SPM-344-A

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: Helmut Ulmer
Serial Number: 10/089,474
Filing Date: August 19, 2002
Examiner/Art Group Unit: Jane Rhee/1772
Title: DECORATIVE FILM WITH INTEGRATED
BREAK LINE

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APPEAL BRIEF

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Please enter the following Appeal Brief in the Notice of Appeal filed December 30, 2005 and the Advisory Action dated November 25, 2005. This appeal is taken from the final rejection of claims 1-6, 11-13 and 15 dated August 30, 2005, and the Advisory Action dated November 25, 2005.

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REAL PARTY IN INTEREST

SAI Automotive SAL GmbH is the real party in interest.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

STATUS OF CLAIMS

Claims 1-6, 11-13 and 15 are rejected.

Claims 7-10 and 14 are cancelled.

STATUS OF AMENDMENTS

The Amendment after final filed October 31, 2005 was entered.

SUMMARY OF CLAIMED SUBJECT MATTER

Referring to Figs. 1-5, a decorative film 1 is provided for covering a foam backed layer (not shown) of an interior trim panel for an automobile vehicle [0005]. The decorative film has a notch 2 cut by a blade [0021]. The notch 2 starts at one surface. The notch 2 terminates within the film 1 and does not extend through to the opposing surface of the film 1 [0021]. A welding runner 4 exerts a pressure on the outside edges of the notch 2 at the one surface so that the edges are pressed together and welded together, [0021] and Figs. 2, 3. The welded edges rigidify at the one surface but leave the internal notch 2' embedded in the film, Fig 4. The internal notch 2' provides a cross-sectional weakening for an airbag [0021].

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- 1) Whether claims 1-2, 4-6, 11-13 and 15 are unpatentable under 35 U.S.C. 103(a) over *Leonhard, et al.* (5626357) in view of *Kawakubo, et al.* (6065771).
- 2) Whether claim 3 is unpatentable under 35 U.S.C. 103(a) over *Leonhard, et al.* (5626357) in view of *Rahmstorf, et al.* (6106003).

ARGUMENTS

Issue 1) Whether claims 1-2, 4-6, 11-13 and 15 are unpatentable under 35 U.S.C. 103(a) over *Leonhard, et al.* (5626357) in view of *Kawakubo, et al.* (6065771).

Claims 1-2, 4 and 11-13

The Examiner states that *Leonhard, et al.* discloses a molded decorative film 18 (Fig. 2) having a break line and the break line is predetermined by a notch 28 (Fig. 2) commencing in the first surface and terminating in the film before the second surface and that the notch is covered by a welded region of an outer layer. Regarding claims 2 and 11, the Examiner states that *Leonhard, et al.* discloses that the cross-sectional weakness is a continuous internal notch following the course of the break line. The Examiner admits that *Leonhard, et al.* does not disclose the decorative film consisting of thermoplastic material, but states that *Kawakubo, et al.* teaches a foam layer polyurethane resin for providing a cushion layer and that it would be obvious.

The Examiner contends that in *Leonhard, et al.* the decorative film is 12 and a notch 28 is formed in the decorative film 12. However, *Leonhard, et al.* clearly states that reference number 12 is a deployment door in a panel 13; and not a film as required in claims 1-2, 4-6, and 11-13. The door 12 in *Leonhard, et al.* is opened relative to the panel 13 at hinge 14 (col. 2, lines 50-55). A gap 28 is formed between the door 12 and the panel 13 (Col. 3, lines 12-

19). A gap 28 is needed between a door 12 and its surrounding panel 13 in order to provide clearance for opening the door 12 relative to the hinge 14 and panel 13. In addition, the gap 28 in *Leonhard, et al.* extends from one surface of foam core 18 to the opposing surface of foam core 18 (as seen in Fig. 2), otherwise the door 12 could not open relative to panel 13. The gap 28 is covered by surface layer 16 (col. 3, lines 18-19). Therefore, the gap 28 between the door 12 and a panel 13 is completely unrelated to a notch formed in a film. In fact, the decorative film as disclosed and claimed in claim 1 is more comparable to the front surface layer 16 in *Leonhard, et al.* than to the door 12 and panel 13. However, there is **NO** notch shown or disclosed in the surface layer 16.

A person of ordinary skill in the art at the time of the Appellant's invention would not interpret that the door at reference number 12 in *Leonhard, et al.* as a film. Nor would the person of ordinary skill identify the gap 28 in *Leonhard, et al.* as a notch. However, even if one agrees with the Examiner's allegations that the notch 28 starts at surface 16 and terminates before opposing surface 24, and that there is a welded region 22 and 26, the cover assembly in *Leonhard, et al.* does not read on claim 1. Claim 1 clearly states that the film has a surface attachable to a foam backing and it is at that same surface where the notch commences. It is also at that same surface where the welded region is located to enclose the notch within the film. The Examiner is alleging one surface 16 for commencing the notch and the opposing surface (at 20 and 26) for having the welded region. This interpretation by the Examiner is NOT what claim 1 requires. Claim 1 requires the same surface for commencing the notch as for having the welded region. Claim 1 also requires that the same surface is attachable to a foam backing. The exterior surface of film 16 in *Leonhard, et al.* does not have a notch commencing therein. The interior surface of film 16 adjacent to foam core 18 also does not have a notch. The notch/gap 28 in the

foam core 18 extends through the form core 18 and does not terminate in the middle of the foam core 18. Further the gap 28 in either surface of core 18 is not attachable to a foam backing since the foam core 18 surfaces are interior relative to the film 16 and substrate 20. Substrate 20 (24) does not have a notch commencing in either surface of the substrate 20 (24). Further, there is no welded portion at 20 and 26 in *Leonhard, et al.* Instead, there is an overlap of a door substrate 26 by the panel substrate 20, at the dropped shelf 24. In addition, there is no welded region surrounding the notch 28 at exterior surface 16 or in the foam core 18. There is no disclosure of a welded region at all in *Leonhard, et al.* In *Leonhard*, the gap/notch 28 is covered by a separate materials (film 16 or substrate 20) to hide the gap/notch 28. Therefore, none of the surfaces forming *Leonhard, et al.* cover assembly have the required features of claim 1.

The Examiner cites U.S.P.N. 6,065,771 by *Kawakubo, et al.* as only teaching the use of a foam layer polyurethane resin for the purpose of providing a cushioning layer (col. 5, line 55) and states that it would be obvious to one having ordinary skill in the art at the time of Appellant's invention to provide the film 18 in *Leonhard, et al.* with thermoplastic material disclosed in *Kowakubo*. However, neither *Kowakubo* nor *Leonhard* disclose putting a notch into the thermoplastic film and a welded region at the outer edges of the surface of the thermoplastic film to close the exterior portion of the notch. Further, *Kawakubo, et al.* only teaches the thermoplastic material as a center cushioning material 18 in Fig. 1. *Kawakub, et al.* does not disclose this material having edges welded together for closing or covering a notch. Therefore, the present invention is distinguished from and not obvious with regard to *Leonhard, et al.* and *Kawakubo, et al.*

It is to be noted that *Leonhard et al.* was cited against claims 1-2 and 4-6 in the Office Action dated March 16, 2004. The Appellant responded to this Office Action on June 16,

2004. As a result of the arguments in the amendment the Examiner withdrew the rejection of the claims in view of *Leonhard et al.* Now the Examiner has reintroduced the same reference for further prosecution and added expense to the Appellant. Reversal of the Examiner's rejection is respectfully requested.

Claim 15

Claim 15 requires a film having a first surface and a second opposing surface and a cross-sectional weakness in the film including a notch starting in the first surface and terminating in the film before the second opposing surface. Claim 15 also requires edges of the notch at the first surface are pressed together and welded for covering the notch. In *Leonhard, et al.* the notch (gap) 28 which extends entirely through the foam core 18 from one surface to the opposing surface is closed by installing another layer 16 over the first surface of foam core 18 and another layer of substrate 20 (24) over the opposing second surface. *Leonhard, et al.* does not show or disclose any welded portion at the surface edges of foam core 18.

If the Examiner is interpreting that the entire cover assembly 12 and 13 is the decorative film then the exposed surfaces of 16 or 20 (24) should have a notch therein. *Leonhard, et al.* does not disclose any notch in film 16 or substrate 20/24. Nor does *Leonhard, et al.* ever disclose that edges of any notches in film 16 or substrate 20/24 are welded together for closing the notch 28 therein. It is apparent that the only way *Leonhard, et al.* covers the gap 28 is by applying another surface material over the gap. *Leonhard, et al.* does not disclose pressed closed edges of the gap 28. Therefore, claim 15 is distinguished from and not obvious with regard to *Leonhard, et al.* and *Kawakubo et al.* Reversal of the Examiner's rejection is respectfully requested.

Issue 2) Whether claim 3 is unpatentable under 35 U.S.C. 103(a) over *Leonhard, et al.* (5626357) in view of *Rahmstorf, et al.* (6106003).

Claim 3 is distinguished from *Leonhard, et al.* for the same reasons as stated above regarding Issue 1, and in particular to claim 1. The Examiner states that *Rahmstorf* was cited merely to teach a plurality of notches for the purpose of improving the technique of tearing open the cover. *Rahmstorf* merely disclosed more than one notch. *Rahmstorf* does not disclose a large number of notches having the features as required in independent claim 1. *Rahmstorf* does not disclose any welded region or welded edges of the notch. Further, since *Leonhard, et al.* at 28 discloses a gap for a door instead of notches, it would not be obvious to one having ordinary skill in the art at the time of the Appellant's invention to combine the *Leonhard, et al.* invention with the large number of internal notches as disclosed in *Rahmstorf* to provide the invention as required in claim 3. There is no motivation to combine the multiple notches in *Rahmstorf* with the *Leonhard, et al.* reference since *Leonhard, et al.* already discloses that the gap 28 surrounds the door 12. Multiple notches or gaps 28 in *Leonhard, et al.* would be irrelevant. It appears that the Examiner is using claim 3 as an instruction manual to find appropriate prior art references without a showing of motivation for the combination. Therefore, claim 3 is not obvious with regard to *Leonhard, et al.* and *Rahmstorf*.

It is also to be noted that the Examiner rejected claim 3 as being unpatentable over *Leonard, et al.* in view of *Rahmstorf, et al.* in the Office Action dated March 16, 2004. An amendment in response was filed on June 16, 2004. No changes were made to original claim 3. In the next Office Action mailed September 2, 2004, the Examiner withdrew the rejection due to the Appellant's arguments. Now the Examiner has reintroduced the same rejection to claim 3 for further prosecution and expense for the Appellant, even though the rejection had been previously addressed and withdrawn. Reversal of the Examiner's rejection is respectfully requested.

CONCLUSIONS

For the reasons stated above, it is respectfully submitted that Appellant's invention set forth in claims 1-6, 11-13 and 15 is distinguished over the prior art. As such, it is respectfully submitted that the Examiner's final rejection of claims 1-6, 11-13 and 15 is erroneously based and its reversal is respectfully requested.

No oral hearing is requested.

Appellant's attorneys check in the amount of \$250.00 is enclosed to cover the Appeal Brief filing fee.

Respectfully submitted,

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CLAIM APPENDIX

1. Moulded decorative film having a surface attachable to a foam backing, said film for use in vehicle interiors and having a break line in a predetermined penetration area for permitting deployment of an airbag, said break line predetermined by a cross-sectional weakness, the cross-sectional weakness being a notch commencing at the surface that is attachable to the foam backing and terminating in the material of the decorative film before the side remote from the surface attachable to foam backing,

characterised in that the notch at the surface attachable to the foam backing is covered by a welded region of an outer layer of the decorative film consisting of thermoplastic material, wherein the welded region is formed by welding edges surrounding the notch at the surface only.

2. Decorative film according to claim 1, characterised in that the cross-sectional weakness is a continuous internal notch following the course of the break line at least partially.

3. Decorative film according to claim 1, characterised in that the cross-sectional weakness is a row of a large number of individual internal notches following the course of the break line at least partially.

4. Decorative film according to claim 1, characterised in that the decorative film is a thermoplastic plastics material skin produced by thermoforming or form-sintering.

5. Decorative film according to claim 1, characterised in that the decorative film is a thermoplastic plastics material skin produced by an injection, casting or spraying process.

6. Decorative film according to claim 1, characterised in that the decorative film is constructed of at least two layers, wherein at least the layer having the surface attachable to the foam backing consists of thermoplastic material.

7. - 10. Cancelled.

11. Decorative film according to claim 15, wherein the cross-sectional weakness is a continuous internal notch following at least partially the course of the break line.

12. Decorative film according to claim 15, wherein the film is a thermoplastics plastic material skin produced by one of thermoforming, form-sintering, an injection process, a casting process and a spraying process.

13. Decorative film according to claim 15, wherein the film is constructed of at least two layers, at least the layer having the first surface attached to the foam backing consisting of thermoplastic material.

14. Cancelled.

15. A moulded decorative film for use in vehicle interiors having a first surface and a second opposing surface, said first surface attachable to a foam backing, said film comprising:

a penetration area for permitting deployment of an airbag, said penetration area having a break line defined by a cross-sectional weakness in the film, said cross-sectional weakness including a notch commencing in the first surface and terminating in the film before the second surface, wherein edges of the notch at the first surface only are pressed together and welded for covering the notch and for providing a break line within the decorative film commencing and terminating completely within the first and second surfaces of the film.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.